

# In the Court of Appeals of the State of Alaska

**Thomas M. Beattie,**  
Appellant,

v.

**State of Alaska,**  
Appellee.

Court of Appeals No. **A-13685**

## **Order**

Motion to Stay Appeal

Date of Order: **December 7, 2020**

Trial Court Case No. **3PA-19-01221CI**

The Appellant, Thomas Michael Beattie, is currently represented at public expense by the Public Defender Agency. The Agency has filed a motion asking this Court to stay this appeal and to remand this case for a representation hearing. The Agency's motion explains that Beattie does not consent to the Agency's standard appellate practice of requesting the maximum extension allowed under this Court's Standing Order No. 12 and that, because of the agency's current backlog of cases, the Agency cannot accommodate Mr. Beattie's request for a faster resolution of his appeal. Although the Agency notes that Beattie does not consent to the Agency practice, he has not requested that he be allowed to represent himself; instead he has requested the Agency to appoint an alternate counsel who could more timely file his brief.

This Court recognizes the backlog facing this Court and the agencies that represent appellants before the Court. The underlying problem is that there are too many criminal appeals compared to the number of lawyers available to brief those appeals. While it may be tempting to order the Public Defender Agency to speed up its briefing in this case, this would create a cascading delay of the briefing in all the other criminal appeals currently being handled by the Agency. There are only so many attorneys who are both (1) available and (2) competent to write a criminal appeal.

*Beattie v. State* p.2  
File No. A-13685  
December 7, 2020

The Public Defender Agency's decision to treat similarly situated defendants similarly is a reasonable one, and Beattie has not shown that there is anything about his case that requires it to be taken out of order. Nor is there any reason to believe that appointing the Office of Public Advocacy would result in his appeal being completed more quickly. Attorneys from both the Public Defender Agency and the Office of Public Advocacy routinely take the full extension permitted under Standing Order No. 12, and the backlogs facing both agencies are similar.

For all these reasons, the Court concludes that Beattie has not established good cause to excuse the Public Defender Agency and appoint different public counsel. However, if Beattie has the means, he may hire private counsel. Or, in the alternative, he may waive the right to assistance of counsel and represent himself in the appeal, but such a request must be knowing and unequivocal and will require a judicial determination that Beattie is competent to represent himself on appeal.

Accordingly, based on the record currently before us, the Agency's request to stay this appeal and to remand for a representation hearing is **DENIED**.

Entered at the direction of Chief Judge Allard.

Clerk of the Appellate Courts



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Carly Williams, Deputy Clerk

cc: Thomas Beattie at Point Mackenzie Correctional Farm  
Distribution:

Email:  
McFarland, Renee, Public Defender  
Cicotte, Matthias R